IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4478 of 2004

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BABUBHAI MANIYABHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR KV SHELAT for Petitioner No. 1

MR NANDINI JOSHI A.G.P. for Respondent No. 1

MR MB GANDHI for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 15/10/2004

ORAL JUDGEMENT

1. The petitioner has by way of this petition challenged the order dated 2nd May, 2000 allotting the two plots which were not in the possession of the GIDC and to direct the respondents to allow suitable Commercial Plots in the Commercial Zone in Vapi GIDC

area.

2. The short facts as they emerge from the record of the case are that the petitioner was holding land near Vapi. The GIDC acquired the land belonging to the petitioner and other lands in that area for establishing an industrial estate. At that time, the GIDC also evolved a policy to allot commercial plots at concessional rates to such land losers. The petitioner was also accordingly allotted plot No. 81/3 at the concesssional rate of Rs.470=00 per sq. mtr.

3. Mr. Shelat learned advocate for the petitioner contended that the petitioner has paid the amount for the allotment which was made on 12th October, 2003 for Commercial plot no. 81/3, admeasuring 993 sq. meters. The said amount of Rs.1,02,571=00 is lying with the respondents since January, 1995.

3.1. Mr. Shelat further contended that in the earlier petition, of the said petitioner, being Special Civil Application No. 12454/2000, this Court has observed as under :-

> "In the facts and circumstances of the case, the respondent GIDC is directed to investigate into the matter and pass appropriate order regarding plot no. C/5/10, within a period of four weeks from the date of the representation, if any, made by the petitioner. With these observations, this petition stands disposed of finally. Notice is discharged with no order as to costs. Direct Service is permitted."

3.2. Pursuant to the notice, the respondents have filed their reply, wherein it is stated as under :

> "It is not in dispute that the contention raised by the petitioner in this connection is correct. That the plot C-5/103, does not belong to GIDC and, therefore, a wrong allotment was done. However, as aforesaid the matter has already been recommended to the higher authority for allotment of another plot so as to give proper allotment order to the petitioner. However, the matter is under consideration and the moment it is decided, the petitioner will be informed of the same."

4. I have heard learned counsel for the respective parties and have perused the relevant record. The contention of the petitioner is that the plot Nos.C-5/102

and C-5/103 do not meet the requirement and need of the petitioner. According to the petitioner on those plots there is some construction already erected by some outsider and these two plots are in different places, uneven and not fit or suitable for commercial activity. It is also apparant from the above order that Plot No.C-4/103 does not belong to GIDC.

5. There is no dispute that the petitioner has made the payment as stated above since the year 1995 and petitioner has not got suitable plot. Under the circumstances, I am of the opinion that the interest of justice would be met by passing the following order:

> "The respondents shall allot suitable plot available with the respondents within a reasonable period. The petitioner shall be allotted any of the plots at the same rate which he had been offered in the year 1995 after deducting the balance amount of Rs.1,05,000=00. As soon as the allotment is made on payment, the respondent Corporation shall give possession of the plot to the petitioner. The exercise of offering any of the plots shall be completed within a period of two months from the date of receipt of the writ of this order.

5. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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